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MAR 18 1994

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY  
OF COMMERCE

William H. BuRoss, III  
Matthew L. Leibowitz

Aaron P. Shainis  
Lee J. Peltzman

March 18, 1994

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N. W.  
Washington, D. C. 20554

Re: Amendment of Section 73.202(b)  
FM Table of Allotments  
(Robstown, Gregory, and Driscoll, Texas)

Dear Mr. Caton:

On March 16, 1994, this office, on behalf of Cotton Broadcasting, licensee of Station KMIQ(FM), Robstown, Texas, filed a Petition for Rule Making. Inadvertently, the engineering supporting that Petition for Rule Making was omitted. Transmitted herewith is an original and four (4) copies of the Petition for Rule Making including the supporting engineering.

Should questions arise concerning this matter, please communicate with this office.

Sincerely,

*Aaron P. Shainis for*

Lee J. Peltzman  
Counsel for  
COTTON BROADCASTING

Enclosure

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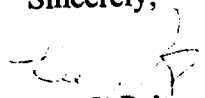
Re: Amendment of Section 73.202(b)  
FM Table of Allotments  
Robstown, Gregory, and Driscoll, Texas

Dear Mr. Caton:

Transmitted herewith, on behalf of Cotton Broadcasting, licensee of Station KMIQ(FM), Robstown, Texas, is an original and four (4) copies of its Petition for Rule Making in the above-referenced matter.

Should questions arise concerning this matter, please communicate with this office.

Sincerely,

  
Lee J. Peltzman  
Counsel for  
COTTON BROADCASTING

Enclosure

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Before The  
**FEDERAL COMMUNICATIONS COMMISSION**

Washington, D. C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of:

Amendment of Section 73.202(b)

FM Table of Allotments

(Robstown, Gregory, and Driscoll, Texas)

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MM DOCKET NO.

RM-

To: Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau

**PETITION FOR RULE MAKING**

Cotton Broadcasting ("Cotton"), licensee of Station KMIQ(FM), Robstown, Texas, by its attorney, hereby respectfully requests that Section 73.202(b) of the Commission's rules be amended as follows:

	Channel No.	
	<u>Present</u>	<u>Proposed</u>
Gregory, Texas	283A	---
Robstown, Texas	260C1, 286A	260C1
Driscoll, Texas	---	283C3

The allocation of Channel 283C3 at Driscoll, Texas, can be made in accordance with the Commission's minimum distance separation and principal community coverage requirements with a site restriction of 10.2 km if the Commission deletes Channel 283A at Gregory, Texas, and Channel 286A at Robstown, Texas. Cotton additionally requests the concurrent modification of its license for Station KMIQ(FM) to specify operation on Channel 283C3 at Driscoll.

Clearly, the public interest would be advanced by the allotment of a first local aural transmission service to the community of Driscoll, Texas. Driscoll is an incorporated

municipality with its own Mayor and City Council as well as a police department and its own independent school district. Driscoll had a 1990 population of 688 persons. Alternatively, the deletion of Channel 286A will leave Robstown with two other local services (one FM and one AM). Thus, the requested action will result in a preferential arrangement of allotments. The proposal will meet the requirements of Section 1.420(i) of the rules in that the requested allotment to Driscoll is mutually-exclusive with the present allotment of Channel 286A at Robstown.

Additionally, the allotment of Channel 283A to Gregory, Texas, made in Report and Order (MM Docket No. 87-396), effective September 26, 1988, has never been implemented. Five years have passed since that effective date, yet no Gregory station has ever been constructed. In fact, a construction permit for Gregory was issued, but then canceled by the Commission on December 16, 1992.<sup>1/</sup> With the deletion of Channel 283A at Gregory from the Commission's FM Table of Allotments, that channel would be considered vacant, meaning that Channel 283C3 may be assigned to the community of Driscoll and the license for Station KMIQ(FM) modified accordingly. The Commission has previously deleted FM channels to accommodate upgrades. See e.g., Cleveland and Ebenezer, Mississippi, 8 FCC Rcd. 2739 (1993); Northport, Alabama, and Macon, Mississippi, 8 FCC Rcd. 2161 (1993). See also Gladwin, Michigan, 7 FCC Rcd. \_\_\_\_, DA 92-804, released June 30, 1992 (FM channel deleted to allow another station to increase power where no application had been filed for the FM channel).

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<sup>1/</sup> Given the proximity of Gregory to Corpus Christi, it is quite possible that a Class A allotment at Gregory would never be economically viable. The Commission had recognized the increased competition and economic hardships among stations in radio markets. See Cleveland and Ebenezer, Mississippi, 8 FCC Rcd. 8654, 8655 (1993).

Further, additional public interest benefits will accrue from the allotment of Channel 283C3 to Driscoll and the concurrent modification of KMIQ's license -- the facility will be able to provide service within its 1 mV/m contour to 315,184 persons, an increase of 443% in population over the current 71,135 persons located within its 1 mV/m contour. It should be noted that Hispanics would represent 54% (169,967 persons) of the total service area population. Moreover, Cotton Broadcasting is 100% owned and operated by Hispanics and its programming is in the Spanish language.

Accordingly, for the reasons stated above, Cotton requests that the Commission adopt this proposal to delete Channel 283A at Gregory, Texas, delete Channel 286A at Robstown, Texas, and allot Channel 283C3 to Driscoll, Texas, as that community's first local aural transmission service and concurrently modify the license for Station KMIQ(FM) to specify operation on Channel 283C3 at Driscoll, Texas. In the event that Channel 283C3 is allotted to Driscoll, Cotton will promptly file an application for a construction permit and, once that application is granted, will immediately construct its station and commence operations.

Respectfully submitted,

COTTON BROADCASTING

By:

  
\_\_\_\_\_  
Lee J. Peltzman  
Its Attorney

SHAINIS & PELTZMAN  
Suite 200  
2000 L Street, N. W.  
Washington, D. C. 20036

202/416-1633

March 16, 1994

CA1994LP.FCC/LOPEZ/PRM

ORIGINAL

TECHNICAL STATEMENT IN SUPPORT  
OF PROPOSED RULE MAKING TO  
AMEND §73.202(b), FM TABLE OF ALLOTMENTS

on behalf of  
COTTON BROADCASTING  
KMIQ RADIO  
DRISCOLL, TEXAS

MARCH, 1994

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**WILLOUGHBY & VOSS**  
BROADCAST TECHNICAL CONSULTANTS  
P.O. BOX 701190  
SAN ANTONIO, TEXAS 78270-1190  
(210) 525-1111

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## WILLOUGHBY & VOSS

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### TECHNICAL STATEMENT IN SUPPORT OF PROPOSED RULE MAKING BY COTTON BROADCASTING FOR KMIQ CH.283C3, DRISCOLL, TEXAS

The firm of Willoughby & Voss has been retained by the Cotton Broadcasting, licensee of KMIQ, FCC File No. BLH-890822KA, to prepare the instant technical statement in support of a petition for rule making to amend the FM Table of Allotments by deleting Channel 283A (104.5 MHz) at Gregory, Texas, by deleting Channel 286A (105.1 MHz) at Robstown and by assigning Channel 283C3 to Driscoll, Texas, as its first local aural service.

1. Section 1.420(g)(3) of the FCC's Rules specify that the Commission may modify the license of an FM station to another class in the course of rule making proceedings, if the modification occurs on a mutually exclusive higher class adjacent or co-channel. KMIQ is presently licensed to Channel 286A and is seeking Channel 283C3 (mutually exclusive third adjacent).

2. Also, Section 1.420(g)(1) specifies that the Commission may modify the license of an FM station to another class in the course of a rule making proceeding if there is no other timely filed expression of interest.

3. The allotment of Channel 283A at Gregory was made in Report & Order MM Docket 87-396 (effective 9-26-88). A construction permit was issued August 21, 1990, to Stuart Gaines Broadcasting Corp. The call letters KZDA were issued, however the facility was never built. The Federal Communications Commission canceled the outstanding KZDA construction permit on December 16, 1992, and there has apparently been no further interest expressed in the Gregory allotment. It is known that in most cases the Commission does not place great credence on economic issues, however, given the proximity of Corpus Christi, to Gregory, it is quite probable that a Gregory Class A allotment would not be economically viable. Whereas, KMIQ is on the air and striving to serve several communities in accordance with the intent of the Commission's desire to provide a diversity of voices in the community.

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## WILLOUGHBY & VOSS

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Channel 283A at Gregory does not have the ability to upgrade beyond Class A6 due to allocation considerations. The only clear site being off-shore, in the Gulf of Mexico. The population of Gregory is 2,438.

Although deletion would leave Gregory with no local service, that community is served by 20 aural signals from Corpus Christi, Texas, (14 miles away).

4. The reference allotment coordinates for the instant proposed rule making meets all Class C3 distance separation requirements of Section 73.207 of the Commission's Rules, with the exception to the vacant 283A allotment at Gregory, Texas, thus necessitating its deletion. The reference coordinates are:

27 degrees, 34 minutes, 45 seconds North Latitude

97 degrees, 43 minutes, 48 seconds West Longitude

Exhibit A is a tabulation of the allocation study. All spacing requirements to Mexican allotments meet the required separations as though the proposal was for a Class B facility. It is requested that Mexican concurrence be sought.

These reference coordinates are 10.2 km (bearing 168.9 degrees True), from the Driscoll, Texas, community coordinates. This site restriction is necessary to meet the distance separation requirements to KMXR Ch. 230C1 at Corpus Christi, Texas and a vacant 283A allotment at Nuevo Laredo, TA, Mexico. This proposed facility will serve all of the community of Driscoll with the required 3.16 mV/m contour.

5. The community of Driscoll, Texas, is an incorporated municipality, having its own Mayor and city council, a police department and provides other services to its residents. The 1990 population for Driscoll proper is 688. Driscoll has its own independent school district (K through 9). The allotment of Channel 283C3 to Driscoll, Texas, will provide the community with a vital wide area outlet for local expression and its first local aural service.

6. The instant proposal is mutually exclusive with the present assignment of KMIQ-FM Channel 286A at Robstown, Texas. The deletion of Channel 286A will still leave that community with two local services, (one FM and one AM).



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WILLOUGHBY & VOSS

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The present KMIQ Channel 286A facility serves 71,135 persons within the 1,689 sq.km. area encompassed by its 60 dBu contour. The proposed Channel 283C3 facility will provide 60 dBu coverage to 4,798 sq.km. and 315,184 persons. This represents an increase of 443% in population and a 284% increase in 60 dBu land area.

7. Within the proposed 60 dBu contour, Hispanics represent (169,967) 54% of the total population (315,184). Cotton Broadcasting is 100% owned and operated by Hispanics and KMIQ programming is in Spanish language.

8. In light of the above facts, and the desire of the Commission for efficient spectrum usage, it is requested that the Table of Allotments contained in Section 73.202(b) of the Commission's Rules be amended to read as follows:

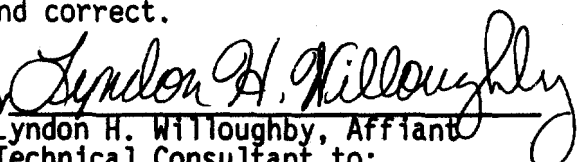
<u>Community</u>	<u>Present</u>	<u>Proposed</u>
Gregory, TX	<u>283A</u>	<u>none</u>
Robstown, TX	260C1, <u>286A</u>	260C1
Driscoll, TX	<u>none</u>	<u>283C3</u>

Upon allotment of the above requested changes, Cotton Broadcasting will make formal application for the respective facility.

CERTIFICATION

The foregoing was prepared on behalf of Cotton Broadcasting, by, or under the immediate supervision of Lyndon H. Willoughby, of Willoughby & Voss, San Antonio, Texas. The affiant's qualifications are contained in previous filings and are a matter of record with the Federal Communications Commission. The statements and data contained herein are true and correct of his own knowledge, except as to statements made on information and belief and as to those statements, he believes them to be true and correct.

March 10, 1994

By   
Lyndon H. Willoughby, Affiant  
Technical Consultant to:  
COTTON BROADCASTING (KMIQ)

# WILLOUGHBY & VOSS

## DISTANCE SEPARATION STUDY

FM Channel Study for Channel 283C3 at 27-34-45 97-43-48  
 Safe Distance of 25.0 Kilometers  
 New (6 kW) Class A spacings employed

\*\*\*\*\* STANDARD DISCLAIMER APPLIES \*\*\*\*\*

Channel Call Applicant/Licensee	City	State	Lat Long	Distance Bearing	Regrd Clear
230C1 KMXR Twin W Communications, Inc.	LIC Corpus Christi	TX	27-46-50 97-38-3	24.24 22.94	24.0 0.24
230C1	USED Corpus Christi	TX	27-46-50 97-38-3	24.24 22.94	24.0 0.24
281C	USED Edinburg	TX	26-5-59 97-50-16	164.27 183.76	96.0 68.27
281A KTNR Bennet Broadcasting, Inc.	ADD Kenedy	TX	28-45-35 97-51-45	131.47 354.35	42.0 89.47
281A	VACANT George West	TX	28-20-6 98-6-54	91.93 335.75	42.0 49.93
281C KBFM May Communications, Inc.	LIC Edinburg	TX	26-5-59 97-50-16	164.27 183.76	96.0 68.27
281A	VACANT Pearsall	TX	28-53-30 99-5-48	197.86 317.64	42.0 155.86
283C1 KZEPFM Texas Lotus Corporation	LIC San Antonio	TX	29-25-9 98-29-6	216.90 340.25	211.0 5.90
283A	VACANT Gregory	TX	27-55-30 97-17-36	57.64 48.22	142.0 -84.36
283C3	VACANT Ganado	TX	28-57-50 96-22-52	202.64 40.46	153.0 49.64
283A	Playa Washington	TA	25-56-45 97-9-23	189.75 162.37	175.0 14.75
283A	Nuevo Laredo	TA	27-29-48 99-30-1	175.11 267.41	175.0 0.11
283C1	USED San Antonio	TX	29-25-9 98-29-6	216.90 340.25	211.0 5.90
285A	USED Premont	TX	27-22-19 98-11-21	50.86 243.27	42.0 8.86

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WILLOUGHBY & VOSS

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DISTANCE SEPARATION STUDY

FM Channel Study for Channel 283C3 at 27-34-45 97-43-48  
Safe Distance of 25.0 Kilometers  
New (6 kW) Class A spacings employed

\*\*\*\*\* STANDARD DISCLAIMER APPLIES \*\*\*\*\*

Channel Call		City	State	Lat	Distance	Regrd
Applicant/Licensee				Long	Bearing	Clear
285A	USED	Alamo				
			, TX	26-12-49	155.45	42.0
	0.00 kW		OM	98- 5-21	193.35	113.45
285A KIBLFM	LIC	Beeville	, TX	28-23- 8	89.36	42.0
Lovelace Associates, Inc.	3.00 kW		91M	97-43-42	0.10	47.36
285A KJAV	LIC	Alamo	, TX	26-12-49	155.45	42.0
Paulino Bernal	3.00 kW		79M	98- 5-21	193.35	113.45
285A KMFM	LIC	Premont	, TX	27-22-19	50.86	42.0
Paulino Bernal	3.00 kW		91M	98-11-21	243.27	8.86
286A	VACANT	Seadrift	, TX	28-24-54	136.67	42.0
	0.00 kW		OM	96-42-30	47.10	94.67
286A NEW	APP	Seadrift	, TX	28-28-42	142.49	42.0
William E. Cordell	6.00 kW		100M	96-41-39	45.39	100.49
286A	USED	Robstown	, TX	27-47-24	24.01	42.0
	0.00 kW		OM	97-40-26	13.32	-17.99
286A KMIQ	LIC	Robstown	, TX	27-40-39	14.13	42.0
Cotton Broadcasting	3.00 kW		91M	97-38-20	39.51	-27.87
286A		Los Villarreales	, TA	26-13-54	174.61	65.0
	0.00 kW		OM	98-38-29	211.44	109.61